

REMARKS

In the Office Action, the Examiner: (1) objected to the drawings under 37 CFR §1.83(a); (2) objected to the disclosure for informalities; (3) rejected claims 24 and 31 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; (4) rejected claims 1-8, 11-21, 23-27, and 29-33 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,967,424 to Stegmeier (“Stegmeier ‘424”) taken with the evidence of U.S. Patent No. 4,574,017 to Stegmeier (“Stegmeier ‘017”); (5) rejected claim 22 under 35 U.S.C. §103(a) as being unpatentable over Stegmeier ‘424 taken with the evidence of Stegmeier ‘017, and applicant’s admitted prior art (“APA”); and (6) rejected claim 22 under 35 U.S.C. §103(a) as being unpatentable over Stegmeier ‘424 taken with the evidence of Stegmeier ‘017, and U.S. Patent No. 4,635,343 to Bumgarner, Sr. (“Bumgarner”).

In this Amendment, Applicant has amended independent claims 1, 11, 24, and 31 to further define patentable aspects and to obviate the Examiner’s objection to the drawings. Dependent claims 5, 20, and 29 have also been amended to further define patentable aspects. Independent claims 24 and 31 have been further amended to overcome the §112, second paragraph, rejections set forth in the Office Action. Dependent claims 8, 14, and 18 have been amended simply to improve their form. New dependent claims 34-43 have been added. No claims have been cancelled. Applicant has also amended the drawings and the specification as shown above to overcome the objection to the disclosure and to coincide with the amendments to the claims presented herein.

The amendments presented herein do not introduce new matter. Support for the amendments can be found in Figures 1-5 of the originally-filed drawings and the corresponding description of these figures in Applicant's originally-filed specification, for example. In particular, Figures 1-5 of the original drawings illustrate edge forming surfaces of exemplary form members, as well as the deck and pool sides of the edge forming surfaces. Further, the specification reasonably teaches that the form member is reusable. In particular, in discussing some of the prior or current edging or coping forms, paragraph 3 makes clear that one of the shortcomings of such systems is that the form is disposable and new forms must be used each time edging and copings are to be formed. In paragraphs 4-6, the specification continues in describing improved current edging or coping forms that are reusable. These forms are of a single piece, such that as the form is removed, a problem may occur when the form comes into contact with the concrete. These problems or difficulties are presented as problems with other forms. The present disclosure describes a form member that overcomes both of these previous short comings that is both reusable and can be removed with a decreased risk of undesirably marking the coping or edging during removal of the form member. Thus, the specification reasonably teaches a reusable form member as claimed in the claims as amended.

Applicant respectfully requests entry of the amendments presented herein into the record. Many of the amendments presented herein have been presented to comply with requirements for form set forth in the Office Action. (37 CFR § 1.116(b)). Upon entry of the amendments into the record, claims 1-43 will be pending with claims 1, 11, 24, and 31 being

in independent form. Reconsideration of the presently pending claims is respectfully requested based on the amendments presented herein and for the following reasons.

Objections to the Drawings

On page 2 of the Office Action, the Examiner objected to the drawings for not showing the “retractable pool cover” set forth in claims 1, 11, 24, and 31 or the “guide member” set forth in claim 11. By this Amendment, Applicant has removed “retractable pool cover” from claims 1, 11, 24, and 31 and “guide member” from claim 11, as shown above in the “Amendments to the Claims” section of this paper, thereby obviating this particular reason for objecting to the drawings. These amendments have been made solely to comply with requirements for form set forth in the Office Action. Therefore, these amendments should be entered into the record in accordance with 37 CFR. §1.116.

The Examiner also objected to the drawings for not showing the method steps set forth in claims 24 and 31. The Examiner asserts that “Figs. 6A and 6B merely illustrate wording in boxes which does not illustrate any of the actions or steps actually recited in the method claims.” (Page 2 of the Office Action). Applicant respectfully disagrees with the Examiner’s assertions because the claimed steps are sufficiently illustrated in the drawings.

Claim 24 includes the steps of removably coupling a support member to an elongated track and removably coupling a form member to the support member. Claim 31 includes the steps of removably mating a first portion of a support member to an elongated track and removably mating a second portion of the support member to a form member. These steps are sufficiently illustrated in the drawings so as to enable one of ordinary skill in the art to

understand the subject matter recited in claims 24 and 31. (37 CFR §1.81(a)). For example, Figures 6A and 6B are flow diagrams illustrating the steps included in claims 24 and 31, respectively. In addition, Figure 3 illustrates an elongated track, a support member, and a form member in uncoupled positions, and Figure 4A illustrates the same elements coupled together. Accordingly, it strains credibility to assert that the drawings do not sufficiently show coupling and mating of the elongated track, support member, and form member so as to enable one of ordinary skill in the art to understand the steps recited in claims 24 and 31.

For the foregoing reasons, Applicant respectfully requests that the Examiner withdraw the objections to the drawings.

Objection to the Disclosure

On page 3 of the Office Action, the Examiner objected to the disclosure because the reference to Figure 6C in the brief description of the drawings should be Figure 6B.

Applicant thanks the Examiner for pointing out this oversight. Applicant has amended the specification by changes Figure 6C to Figure 6B in the brief description of the drawings, as shown above in the “Amendments to the Specification” section of this paper. Therefore, Applicant respectfully requests that the Examiner withdraw the objection to the disclosure.

Rejections under 35 U.S.C. §112, Second Paragraph

On pages 3 and 4 of the Office Action, the Examiner rejected claims 24 and 31 under 35 U.S.C. §112, second paragraph, as being indefinite. In particular, the Examiner asserts that “it is unclear as to whether the “elongated track” is intended to be part of the claimed

combination since structure of the “edging” is defined as being connected thereto (ln. 4), but no positive structural antecedent basis therefore has been defined.” (Pages 3 and 4 of the Office Action). It is not entirely clear to Applicant what the Examiner means by this sentence. However, in good faith, Applicant respectfully traverses this rejection because antecedent basis for both the elongated track and the edging is introduced in the preambles of claims 24 and 31, as amended. Accordingly, Applicant does not see any §112 problem with amended claims 24 and 31. Therefore, Applicant respectfully requests withdrawal, or further clarification, of the §112 rejection of claims 24 and 31.

Rejections under 35 U.S.C. §§ 102 and 103

A. Independent Claims 1, 11, 24, and 31

The Examiner rejected independent claims 1, 11, 24, and 31 under 35 U.S.C. §102(b) as being anticipated by Stegmeier ‘425 taken with Stegmeier ‘017. (Page 5 of the Office Action). Applicant has amended independent claims 1, 11, 24, and 31 to further define patentable aspects. For example, amended claim 1 recites the limitations of:

a form member having an edge forming surface shaped to form the edging, and
a support member adapted to be removably coupled to the form member and to removably couple the form member to the elongated track, the removable coupling of the support member to the form member being substantially pool side of the edge forming surface. (Amendments emphasized).

Claims 11, 24, and 31 have been amended to include similar limitations directed to the removable coupling of the support member to the form member being substantially pool side of the edge forming member. Removably coupling the support member to the form member on the pool side of the edge forming surface of the form member allows the form member to be removed from the support member (e.g., in a horizontal direction) without disturbing the deck edging. (Paragraph [0024] of Applicant's specification).

The amendments to claims 1, 11, 24, and 31 do not introduce new matter because support is found in the originally-filed application. For example, the original drawings illustrate examples of an edge forming surface of a form member, as well as examples of removable coupling of a support member to a form member being substantially pool side of the edge forming surface. (E.g., see Figures 3-5 of the original drawings). Applicant's specification has been amended as shown herein to describe the edge forming surfaces and the pool side removable couplings shown in the original drawings. The drawings have also been amended to include reference numbers identifying the edge forming surfaces as well as the deck and pool sides of the edge forming surfaces. These amendments are fully supported by the original application. (See the original Figures 3-5, for example).

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Applicant respectfully submits that Stegmeier '424 taken with the evidence of Stegmeier '017 does not disclose the limitations directed to the removable coupling of the support member to the form member being substantially pool side of the edge forming member. The Examiner relies on

insert 50, form board 28 and clips 37, and hook 38 to reject the support member, form member, and removable coupling of the form member to the support member, respectively. (Page 5 of the Office Action). As shown in Figure 5 of Stegmeier '424, the hook 38 is attached to the insert 50 on the deck side of the part of the form board 28 configured to form decking 26. Accordingly, Stegmeier '424 does not disclose the limitation of the removable coupling of the support member to the form member being substantially pool side of the edge forming member. Therefore, Stegmeier '424 taken with the evidence of Stegmeier '017 does not anticipate claims 1, 11, 24, and 31 as amended. The other references cited by the Examiner to reject several dependent claims (i.e., APA and Bumgarner) were cited for unrelated disclosures (APA was cited for an alleged disclosure of an alignment member and Bumgarner was cited for an alleged disclosure of a bull nose shape form member) and, as such, do nothing to cure the above-described deficiencies of Stegmeier '424 taken with the evidence of Stegmeier '017. For the foregoing reasons, Applicant respectfully requests that the Examiner withdraw the §102 rejection of independent claims 1, 11, 24, and 31, which are in condition for allowance.

B. The Dependent Claims Recite Independently Patentable Subject Matter

Dependent claims 2-10, 12-23, 25-30, 32, and 33 are in condition for allowance as claims depending directly or indirectly from independent claim 1, 11, 24, or 31. Nevertheless, the dependent claims also recite independently patentable subject matter not disclosed in the prior art of record. Merely by way of example, dependent claims 5, 20, and

29 have been amended to include limitations directed to the support member being configured to enable the form member to be removed from the support member in a horizontal direction.

These amendments are fully supported by Applicant's original specification. For example, see paragraph [0024] of Applicant's specification, which discloses that the "support member enables the removal of form members in a horizontal direction so that the hardening deck edging will not be disturbed." In contrast, the form board 28 of Stegmeier cannot be removed from the insert 50 in a horizontal direction because decoupling the hook 38 from the insert 50 inherently requires a rotational or other non-horizontal motion. Thus, the apparatus of Stegmeier '424 falls within the following description found in the "Background" section of Applicant's specification: "The form usually needed to be rotated somewhat to be removed, which occasionally caused the form to strike fresh concrete, risking damage to the deck edging." (Paragraph [0006] of Applicant's specification). Thus, Stegmeier '424 taken with the evidence of Stegmeier '017 fails to disclose the claim limitations of a support member that enables the removal of form members in a horizontal direction so that the hardening deck edging will not be disturbed. APA and Bumgarner were cited by the Examiner for unrelated alleged disclosures and, as such, do nothing to cure the above-described deficiencies of Stegmeier '424 taken with the evidence of Stegmeier '017. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claims 5, 20, and 29 as amended, which are in condition for allowance.

By way of another example, claim 16, in the context of claim 15 from which claim 16 depends, includes limitations directed to a removable clamp for removably securing the form

member to the support member. Applicant cannot find any disclosure of a removable clamp in Stegmeier '424 taken with the evidence of Stegmeier '017. In fact, the use of a hook 38 to attach form board 28 to insert 50 teaches away from using a removable clamp. Again, APA and Bumgarner were cited by the Examiner for unrelated alleged disclosures and, as such, do nothing to cure the above-described deficiency of Stegmeier '424 taken with the evidence of Stegmeier '017. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claim 16, which is in condition for allowance.

New Claims 34-43

Applicant has added new dependent claims 34-43, which are in condition for allowance as claims depending from independent claim 1, 11, 24, or 31. In addition, the new claims also recite independently patentable subject matter not disclosed in the prior art of record. For example, claims 34 and 37, which depend from independent claims 1 and 11, respectively, recite limitations directed to a spacer wedged at least partway into the elongated track to removably couple the support member to the elongated track. Claims 39 and 41, which depend from independent claims 24 and 31, respectively, recite limitations directed to wedging a spacer at least partway into the elongated track to removably couple the support member to the elongated track. Support for the "spacer" limitations is found in the application as originally filed. For example, see paragraph [0019] of Applicant's specification. The prior art of record does not include any disclosure of a spacer wedged at least partway into the elongated track to removably couple the support member to the

elongated track. Therefore, Applicant respectfully submits that new claims 34, 37, 39, and 41 are in condition for allowance.

New claim 35, in the context of claim 7, from which claim 35 depends, includes limitations directed to a removable clamp for removably securing the form member to the support member. New claims 40 and 42, which depend from independent claims 24 and 31, respectively, include limitations directed to using a removable clamp to removably couple the form member to the support member. Accordingly, for the same reasons presented above in relation to claim 16, new claims 35, 40, and 42 are in condition for allowance.

New claims 36 and 38, which depend from independent claims 1 and 11, respectively, include limitations directed to the support member being configured to removably couple the form member to the elongated track such that the support member extends away from the elongated track and beyond the edge forming surface of the form member. The subject matter is fully supported by the originally filed application. For example, see Figures 3-5 of the original application. Stegmeier '424 taken with the evidence of Stegmeier '017 does not disclose a support member extending away from an elongated track and beyond the edge forming surface of a form member. The Examiner relies upon the insert 50 of Stegmeier '424 to reject the support member recited in the claims. As illustrated in Figure 5 of Stegmeier '424, the insert 50 does not extend away from an elongated track and beyond the edge forming surface of a form member. The other cited references also fail to disclose a support member extending away from an elongated track and beyond the edge forming surface of a form member. Therefore, Applicant respectfully submits that new claims 36 and 38 are in condition for allowance.

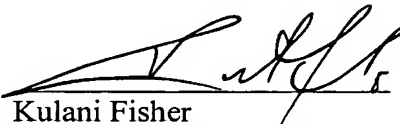
New claim 43 which depends from independent claim 31, include limitations directed to the form member being removable from the support member a horizontal direction. Accordingly, for the same reasons presented above in relation to claims 5, 20, and 29, new claim 43 is in condition for allowance.

CONCLUSION

For the foregoing reasons, the present application is thought to be in condition for allowance. Accordingly, favorable reconsideration of the application in light of the amendments and remarks provided above is courteously solicited. If any fees are owed in connection with this paper, which fees have not been elsewhere authorized, authorization is hereby given to charge those fees to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC. If the Examiner has any comments or suggestions which could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

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Kulani Fisher
Registration No. 50,987

Kulani Fisher
Rader Fishman & Grauer PLLC
River Park Corporate Center One
10653 S. River Front Parkway, Suite 150
South Jordan, Utah 84095

(801) 572-0185
(801) 572-7666 (fax)

40059-0010

10/700,714

APPENDIX A

DRAWING REPLACEMENT SHEETS

AMENDMENTS TO THE DRAWINGS

Please substitute the enclosed replacement drawings including Figures 3, 4A, 4B, 4C, and 5 for the previous version of drawing sheets including the same figures. The replacement drawing sheets are attached hereto as Appendix A.

The replacement drawing sheets amend the drawings by adding reference number “57” to Figures 3 and 4A to identify an edge forming surface of form member 42, adding reference number “87” to Figure 4B to identify an edge forming surface of form member 72, adding reference number “107” to Figures 4C and 5 to identify an edge forming surface of form member 92, adding “deck side 66” and an arrow in Figure 4A to identify the deck side of edge forming surface 57, and adding “pool side 68” and an arrow in Figure 4A to identify the pool side of edge forming surface 57. Each of the amendments is fully supported by the original application. The specification has been amended as shown herein to coincide with these amendments to the drawings.